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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,362	06/18/2001	Drew Heimer	1161-37	1799

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EXAMINER

MAPLES, JOHN S

ART UNIT PAPER NUMBER

1745

DATE MAILED: 11/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/884,362

Applicant(s)

HEIMER, DREW

Examiner

John S. Maples

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1745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 ~~is~~/are pending in the application.
- 4a) Of the above claim(s) 13-20 ~~is~~/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 ~~is~~/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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1. Applicant's election of Group I in Paper No. 7 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

2. Claims 13-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3, 6, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Yellin-US 3,655,065. (Yellin) (New Rejection)

Reference is made to Figures 1-4 of Yellin along with column 1, line 53 through column 3, line 37. The stackable member of Yellin is specifically seen in Figure 1.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stone-US 5,981,101. (Stone) (New rejection with regard to claims 2 and 8-9)

The patent to Stone sets forth all of the claimed subject matter in Figures 4 and 7 and in column 6, lines 15-27 and in column 7, line 38 through column 8, line 21 except for the particular makeup of the modules. The air-flow openings are the openings at the ends of the

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elements 20. The rib of claim 8 is the element 98 as seen in Figure 3. It is noted that column 6, lines 5-14 disclose the modules in Stone being formed of "whatever material is desired". It would have been obvious to one of ordinary skill in this art at the time the invention was made to have formed the modules of Stone of plastic for the well known properties thereof in being strong and durable and yet being lightweight.

Applicant's arguments relating to the above rejection have all been considered but are not deemed persuasive. Applicant argues that Stone uses a double wall between the plurality of cells. This may be true, however, applicant has used the open ended terminology "comprising" in the claims. This language allows for additional elements to be present in the claims with the claims still being anticipated by the reference. This is because Stone discloses all of the claimed subject matter and more. Thus, even though Stone shows more elements than those claimed, the subject matter is shown by Stone and thus meets the claimed subject matter.

7. Claims 1, 4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yellin in view of Stone-US 5,403,679 ('679) and Lavanture-US 6,521,371 ('371). (New Rejection)

The patent to Yellin discloses all of the claimed subject matter except for the ribs on the base and for the particular interconnecting structure on the modules. The '679 patent depicts a module with a deflectable snap structure that fits in a receptacle on an adjacent module. To incorporate this structure in the module of Yellin would have been obvious to provide a quick assembly feature to aid in the set up time of the modules in Yellin. A battery support including ribs on the surface thereof is taught by '371. To include the ribs of '371 in Yellin would also have been obvious to one of ordinary in this art so that any overflow of fluid from the battery would have a place to drain.

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8. Claims 1, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yellin in view of '371. (New Rejection)

Yellin teaches all of the claimed subject matter of the above noted claims except for the ribs on the base. As stated in the previous section of this action, '371 shows ribs on a base plate supporting a battery cell. To include the ribs of '371 in the module assembly of Yellin would also have been obvious to one of ordinary in this art so that any overflow of fluid from the battery would have a place to drain.

9. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John S. Maples whose telephone number is 703-308-1795. The examiner can normally be reached on Monday-Thursday from 6:15-3:45.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 703-308-2383. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



John S. Maples  
Primary Examiner  
Art Unit 1745

JSM/11-17-2003